



**CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. § 1.8**

Pursuant to 37 C.F.R. § 1.8, I hereby certify that this Response to Missing Parts and Petition to Accept Application Due To Inventor Refusing to Sign, is being deposited with the United States Postal Service, as first class mail in an envelope addressed to: Mail Stop: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22323-1450, on:

Date: 2/26/04

By: John Z. Rini

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT**

Applicant(s):	Berardi, et al.	Docket No.:	60655.0100
Serial No.:	10/611,563	Group Art Unit:	TBA
Filed:	June 30, 2003	Examiner:	NYA
TITLE:	<b>CLEAR CONTACLESS CARD</b>		

**RESPONSE TO MISSING PARTS**

**PETITION FOR ACCEPTANCE OF APPLICATION PURSUANT TO 37 C.F.R. §1.47  
INVENTOR REFUSES TO SIGN**

Commissioner for Patents  
Box: **Petition/Missing Parts**  
P.O. Box 1450,  
Alexandria, VA 22323-1450

Dear Sir:

Applicants ("Petitioners") hereby respond to the September 26, 2003 Notice to File Missing Parts issued in the above noted application, for which the time period, for response expired November 26, 2004. In conjunction with this Response to the Notice to File Missing Parts Applicants/Petitioners hereby Petition the Commissioner to accept the enclosed Declarations executed by the signing inventors on behalf of themselves and non-signing inventor

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Ms. Alexandra Mayers. Inventor Alexandra Mayers refuses to join with the remaining joint inventors in the above-identified Application for patent.

**The Examiner is permitted to charge any fees regarding this Petition to accept, or credit any overpayment, to deposit account No. 19-2814.** A duplicate copy of this request is enclosed for your use.

**PETITION TO ACCEPT APPLICATION DUE TO INVENTOR REFUSING TO JOIN  
PURSUANT TO 37 C.F.R. §1.47(a)**

Petitioners hereby petition the Commissioner to accept the declarations of the signed inventors on behalf of nonsigning inventor Alexandra Mayers. Inventor Alexandra Mayers is refusing to join with the remaining joint inventors in the above-identified application for patent.

In accordance with the section 1.47(a), if a joint inventor refuses to join in an application for patent, the application may be made by the other inventors on behalf of the signing inventors and nonsigning inventors. Section 1.47(a) requires that:

1. all available joint inventors must make an oath or declaration on their own behalf, and make an oath or declaration on behalf of the nonsigning inventor,
2. the application must be accompanied by proof that the nonsigning inventor refuses to execute the application papers, and
3. the petition must indicate the last known address of the nonsigning joint inventor.

1. Oath Or Declaration Is Made By All Available Inventors and  
On Behalf Of The Nonsigning Inventor

Accompanying this Petition are Declarations executed in compliance with 37 C.F.R. §1.63. The Declarations are signed by all available joint inventors on their own behalf, with the signature block of the nonsigning inventor, Alexandra Mayers, left blank. Thus, in accordance with MPEP §409.03(a), where an oath or declaration is signed by all the available inventors with the signature block of the nonsigning inventor left blank, the declaration may be treated as having been signed by all the available inventors on behalf of the nonsigning inventors.

2. Proof Is Made That The Nonsigning Inventor Refuses To Execute The  
Application Papers

Ms. Mayers has demonstrated through her conduct and through explicit written communication that she refuses to join with the remaining joint inventors in the above-identified application for patent. In explaining her reason for refusing to join, Ms. Mayers notes a dispute for consideration with American Express, as set forth in the attached sworn statement of Patrick L. Mixon, American Express outside patent counsel, and in the accompanying supporting correspondence.

Briefly, Ms. Mayers participated in the conception of the invention of the above-identified application while an employee of American Express, under American Express's instruction, and within the scope of her duties as employee of American Express. Thus, American Express, has a clearly defined proprietary interest in the application.

Snell & Wilmer Attorney, Patrick Mixon, provided the complete application (including specification and drawings) and the inventor's declaration to Ms. Mayers, with instructions to review the application and execute the inventor's declaration accordingly. Neither Snell & Wilmer nor the Petitioners have received any communication from Ms. Mayers regarding her intention to execute the inventor's declaration in the application. Notably, American Express, through the undersigned Snell & Wilmer attorney, filed similar 37 C.F.R. § 1.47 Petitions in four previous applications on which Ms. Mayers is an inventor, and for which Ms. Mayers has also refused to join in the prosecution of those applications. To date, three of the four petitions have been GRANTED. (See accompanying Statement of Facts Submitted in Support of this Petition).

3. Last Known Address Of The Nonsigning Joint Inventor

In accordance with MPEP §409.03(e), an application filed pursuant to 37 C.F.R. 1.47 must state the last known address of the nonsigning inventor. The address should be the last known address at which the inventor customarily receives mail. The last known address of which the Petitioners are aware is:

49 Grove Street,

APT. #5A

New York, New York 10014.

In addition, Ms. Mayers can be reached at the following email addresses:

lexy@aya.yale.edu, and mayerslexy@yahoo.com.

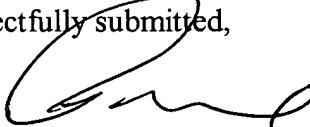
The declarations included with this petition are responsive to the September 26, 2003 Notice to File Missing Parts under 37 C.F.R. §1.53(b) for which period of time to reply expired November 26, 2003 . Accordingly, Applicants respectfully Petition for an Extension of Time to Reply of three (3) months.

**Should the Examiner determine that a more appropriate time period is appropriate, the Examiner is permitted to charge the fees identified below and any additional fees regarding this petition, or credit any overpayment, to deposit account No. 19-2814.** A duplicate copy of this request is enclosed for your use.

The Petioners respectfully request favorable consideration of this petition Pursuant to 37 C.F.R. §1.47(a), and acceptance of the declarations of the signing inventors. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Date: 2/26/04

Respectfully submitted,

By 

Patrick L. Mixon  
Reg. No. 47,801

**SNELL & WILMER L.L.P.**  
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